

NW-23-1N-4E
33.41526, -111.925485
APN 132-73-537
WA301017
RLM

CITY OF TEMPE - APS UTILITY EASEMENT

THE CITY OF TEMPE a municipal corporation of the State of Arizona, (hereinafter called "Grantor"), is the owner of the following described real property located in Maricopa County, Arizona (hereinafter called "Grantor's Property"):

AS RECORDED IN INSTRUMENT NUMBER 2010-01138892 M.C.R.

Lot 1, of "THE VUE ON APACHE", according to the Plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded as Book 1006 of Maps, Page 19.

Subject to the terms, conditions and requirements hereof, Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement, 8 feet in width or as further described in Exhibit "A" attached hereto at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property as described and delineated by diagonal lines on Exhibit "A" attached hereto and made a part hereof (herein called the "Easement Premises"):

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; and install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities solely for Grantee's own use incidental to supplying electricity (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"). Grantee Facilities shall consist of underground electric lines and appurtenant facilities including pad mounted equipment, the locations of which are set forth in Exhibit "A" In no event may any overhead electric lines and associated overhead equipment be installed unless on a temporary basis during an emergency to restore power. Grantee shall at all times have the right of full and free ingress and egress to, on, over and along the Easement Premises for the purposes herein specified.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises which in Grantee's reasonable judgment endangers the safety of or unreasonably interferes with the safe operation and maintenance of the Grantee Facilities.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee (which consent shall not be unreasonably withheld, conditioned or delayed). However, Grantor reserves for itself and its successors and assigns, the right to use and grant to others the right to use, the Easement Premises or any portions thereof for any and all lawful purposes only to the extent that the same does not unreasonably interfere with and that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, driveways, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises without the prior written consent of Grantee (which consent shall not be unreasonably withheld, conditioned or delayed), and in no event shall a change in the grade compromise Grantee's minimum cover requirements or unreasonably interfere with Grantee's operation, maintenance or repair.

Grantee shall not have the right to use the Easement Premises to store gasoline or petroleum products, hazardous or toxic substances, or flammable materials; provided however, that this prohibition shall not apply to any material, equipment or substance contained in, or a part of, the Grantee Facilities, provided that Grantee must comply with all applicable federal, state and local laws and regulations in connection therewith. Additionally, the Easement Premises may not be used for the storage of construction-related materials or to park or store construction-related vehicles or equipment except on a temporary basis to construct, reconstruct, replace, repair, operate, or maintain the Grantee Facilities.

Solely to the extent that the clear areas are located within the Easement Premises, Grantor shall maintain clear areas that extend: 1) 2 feet from and around all edges of all transformer pads and other equipment pads, and 2) a clear operational area that extends 10 feet immediately in front of all transformers and other equipment openings, and 3) a 6 feet by 6 feet hot-stick operating area off the front left corner of all transformers. No obstructions, trees, shrubs, large landscape rocks, fences, fixtures, or permanent structures shall be placed by Grantor within said clear areas; nor shall Grantor install landscape irrigation or sprinkler systems within said clear areas located within the Easement Premises. Landscape irrigation or sprinkler systems installed adjacent to the clear areas shall be installed and maintained so that the transformers, switching cabinets or any other equipment do not get wet by spray or irrigation to the maximum extent reasonably practicable.

Grantee shall exercise reasonable care to avoid damage to the Easement Premises and all improvements thereon and agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area, including without limitation, all pavement, landscaping, cement, and other improvements permitted within the Easement Premises pursuant to this easement will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee. Grantee shall similarly repair any damage caused by Grantee to any property adjacent to the Easement Premises.

Grantor reserves the right to require the relocation of Grantee Facilities to a new location within Grantor's Property; provided however, that: (1) Grantor pays the entire cost of redesigning and relocating Grantee Facilities; and (2) Grantor provides Grantee with a new easement in a form and location designated by Grantor and reasonably approved by Grantee and at no cost to Grantee. Upon the approval by Grantee of the new easement location (which approval shall not be unreasonably withheld, conditioned or delayed), and after the relocation of Grantee Facilities to the new easement area, Grantee shall abandon its rights to use the Easement Premises granted in this easement. The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement. Grantee agrees to promptly execute and deliver to Grantor a formal instrument abandoning its right to use the Easement Premises.

If any of Grantee's electric facilities in this easement are not being used or are determined not to be useful, Grantor may request that the facilities that are no longer needed be removed and that portion of the easement be abandoned. Grantee will execute and record a formal instrument abandoning the easement, or a portion thereof. Any facilities that are determined to still be needed for Grantee's electrical system can be relocated pursuant to the above relocation requirements.

Grantee shall not have the right to transfer, convey or assign its interests in this easement to any individual, corporation, or other entity (other than to an affiliated entity of Grantee or an entity that acquires from Grantee substantially all of Grantee's electric distribution facilities within the area of Grantor's Property) without the prior written consent of Grantor, which consent shall not be unreasonably withheld, conditioned or delayed. Grantee shall notify Grantor of the transfer, conveyance or assignment of any rights granted herein.

Grantee shall indemnify Grantor, to the extent required by law, for any loss, cost or damage incurred by Grantor as a result of any negligent installation, excavation, maintenance, repair or other work performed by Grantee within the Easement Premises.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of, and shall be binding on the heirs, administrators, executors, successors in ownership and estate, permitted assigns and lessees of Grantor and Grantee.

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, City of Tempe a municipal corporation of the State of Arizona, has caused this Utility Easement to be executed by its duly authorized representative, this __ day of _____, 20__.

APPROVED AS TO FORM:

CITY OF TEMPE a municipal corporation of the
State of Arizona

City Attorney

By: _____
Mark W. Mitchell

Its: _____

ATTEST:

City Clerk

STATE OF _____ }
 } ss.
County of _____ }

This instrument was acknowledged before me this __ day of _____, 20__ by

_____ of the City of Tempe, a municipal
corporation of the State of Arizona, on behalf of said municipal corporation.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Seal

Notary Public

JOINDER AND CONSENT

The undersigned, being the Tenant pursuant to that certain Land and Improvements Lease dated December 29, 2010, executed by and between the City of Tempe, as Landlord, and the undersigned, as Tenant, hereby consents to the execution of the foregoing Utility Easement by the City of Tempe.

IN WITNESS WHEREOF, the undersigned has executed this Joinder and Consent on January 8, 2016.

CAMPUS INVESTORS 922 APACHE PROPERTY
OWNER, LLC, a Delaware limited liability company

By: [Signature]

Name: James C. Hopke

Title: Vice President

STATE OF TEXAS)
) SS.
COUNTY OF TRAVIS)

The foregoing instrument was acknowledged before me this 8th day of January, 2016, by James C. Hopke, the Vice President of CAMPUS INVESTORS 922 APACHE PROPERTY OWNER, LLC, a Delaware limited liability company, who is personally known to me or has presented sufficient identification to me, and who acts on behalf of the company with authority.

WITNESS my hand and official seal.

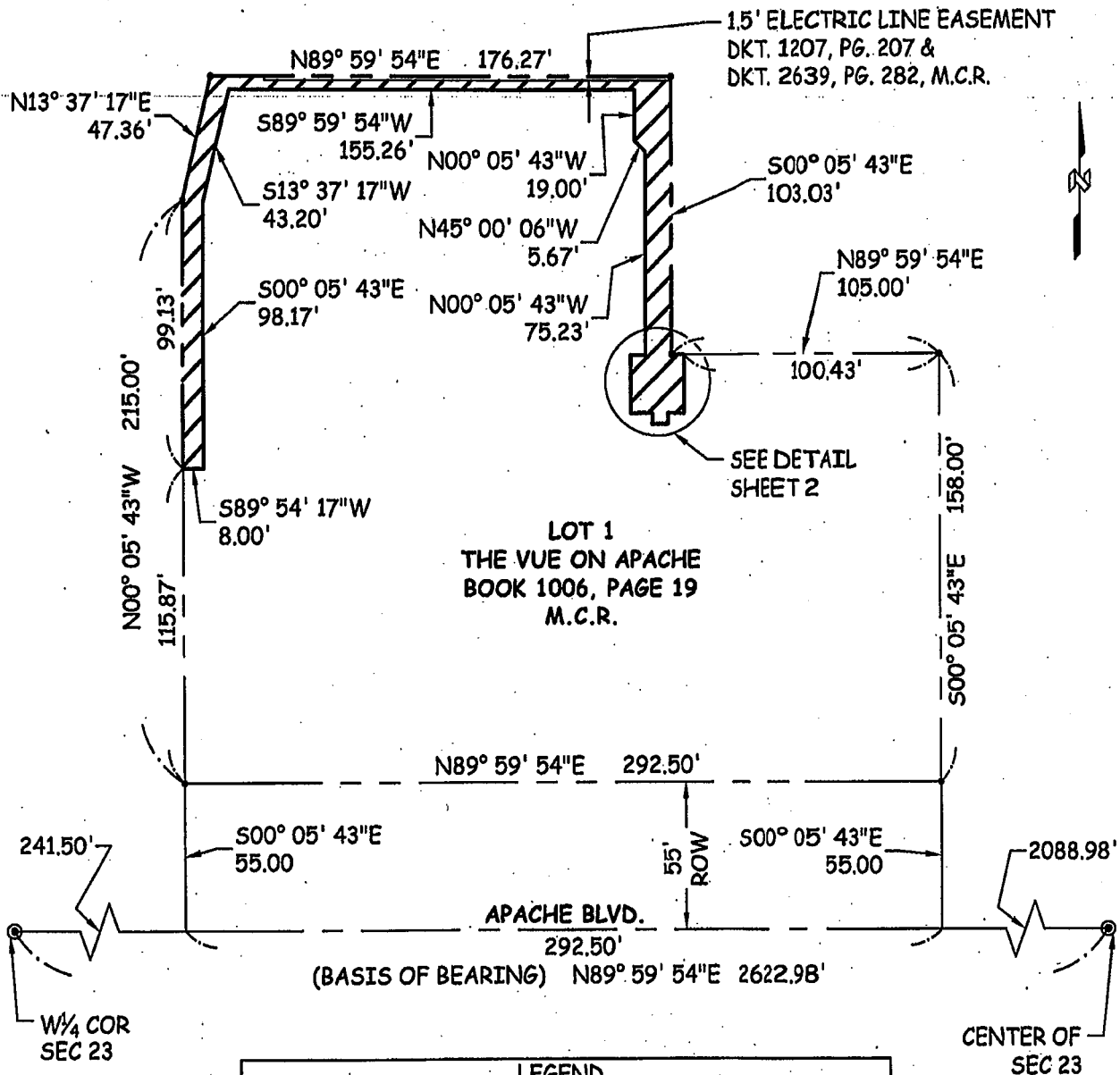
[Signature: Karen L. Wilson]
Notary Public, in and for State of Texas

My commission expires:



EXHIBIT "A"

SKETCH SHOWING LOCATION AND LIMITS OF UTILITY EASEMENT WITHIN
A PORTION OF THE NW ¼ OF OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 4 EAST, G.&S.R.M.
MARICOPA COUNTY, ARIZONA



LEGEND



EASEMENT AREA
MONUMENT LINE
PROPERTY LINE



PROPERTY CORNER
MONUMENT
EXISTING EASE.

THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE
DIMENSIONS AND APPROXIMATE LOCATION AND ALIGNMENT
OF THE ELECTRIC LINE EASEMENT AREA. THE LOCATION AND
ALIGNMENT OF THE ELECTRIC LINE AND FACILITIES AS
ACTUALLY CONSTRUCTED SHALL TAKE PRECEDENCE OVER THE
LOCATION AND ALIGNMENT SHOWN ON THIS EXHIBIT.

JOB # WA301017 DATE: 12/10/15

NW ¼ SEC 23 T 1N R 4E

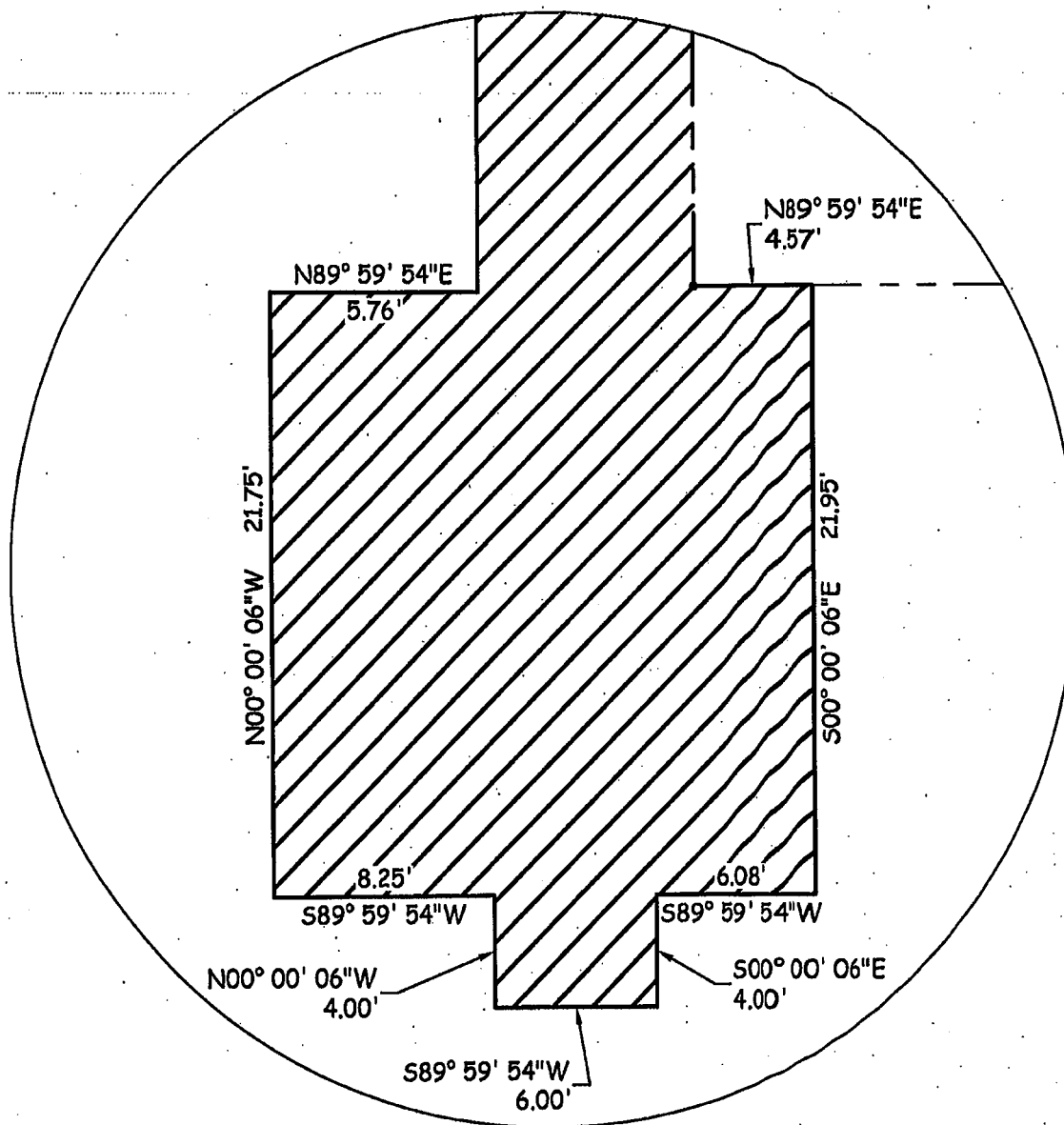
SCALE 1"=60'

R/W: BOUCHE

SURVEY: SMITH - KOTSCHEDOFF

DRAWN BY: RICHARDS PG. 6 OF 7

EXHIBIT "A"



THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE DIMENSIONS AND APPROXIMATE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE EASEMENT AREA. THE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE AND FACILITIES AS ACTUALLY CONSTRUCTED SHALL TAKE PRECEDENCE OVER THE LOCATION AND ALIGNMENT SHOWN ON THIS EXHIBIT.

JOB # WA301017	DATE: 12/10/15
NW 1/4 SEC 23	T 1N R 4E
SCALE: N.T.S.	
R/W: BOUCHE	
SURVEY: SMITH - KOTSCHEDOFF	
DRAWN BY: RICHARDS	PG. 7 OF 7